

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16355 of 2019

Prashant Kumar, aged about 46 years, Male, S/o Late Shivendra Prasad Singh
Resident of Sarrahi Mor Chowk, Naya Bazar Ward no. 3, P.s.- Saharsa, Distt.-
Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Patna
2. The Principal Secretary Building Construction Department, Patna
3. The Engineer in Chief Building Construction Department, Patna
4. The Chief Engineer Building Construction Department, Northern Region, Patna
5. The Superintending Engineer Building Division, Saharsa
6. The Executive Engineer Building Construction Department, Building Division, Saharsa.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Satish Kumar Singh, Advocate Mr. Dinesh Maharaj, Advocate
For the Respondent/s	:	Mr.Subodh Kumar, AC to SC-26

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-10-2019 Heard learned counsel for the petitioner and

learned counsel representing the State.

Petitioner is aggrieved by and dissatisfied with

the order as contained in letter no. 770 dated 01.04.2019

issued under the signature of the Executive Engineer,

Building Division, Saharsa as contained in Annexure '3'

to the writ application by which on the allegation of non-

completion of the work in question the petitioner has been

debarred from participating in the next tender.



Learned counsel for the petitioner submits that the order of debarment has been passed without considering the request and reminder of the petitioner vide his letter dated 12.02.2019 and 12.04.2019, copies of which are available on the record with the writ application. Learned counsel submits that there is no denial in the counter affidavit that these representations and request of the petitioner were not received in the office of the competent authority. In such circumstances if without considering the representation of the petitioner the order of debarment has been passed, the same is liable to be set-aside.

Learned counsel for the State has while drawing the attention of this court towards the contents of the letter dated 01.04.2019 submits that by said letter the petitioner was debarred from participating in the very next bid and it cannot be said to be a case of permanent debarment. In this regard, learned counsel submits that in the counter affidavit also it has been specifically stated that the petitioner was debarred from taking part in the next



tender. It is submitted that since the petitioner has not participated in the next tender, the letter no. 770 dated 01.04.2019 has lived its utility and the order of debarment is not being a permanent debarment, now the writ application has become infructuous.

As regards the claim of the petitioner towards some outstanding bills, it is the stand of the State respondents that the admitted amount has been paid to the petitioner.

Having heard learned counsel for the petitioner and learned counsel representing the State, this court is of the considered opinion that so far as the order of debarment is concerned, in view of the specific stand of the State that the petitioner was debarred only for participating in the next tender and no more. It is not in the nature of a permanent debarment and since the petitioner has not participated in the next tender in the department, the writ application to that extent has become infructuous, and as regards the claim towards payment of outstanding bills, this court finds that according to the



respondents admitted claim have already been paid to the petitioner. Still if the petitioner has any grievance and according to him any amount is still lying unpaid, it will be open for the petitioner to seek his remedy for recovery of the money before the competent court/forum in a duly constituted proceeding before appropriate forum. If before moving such court/forum the petitioner submits a representation in this regard to the competent authority of the department, the same shall be considered by the department and a decision thereon shall be communicated to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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